**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CRIMINAL APPLICATION No. 879 of 2000**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**FIROZBHAI ISMAILBHAI VORA - Applicant(s)**
**Versus**
**STATE OF GUJARAT & 3 - Respondent(s)**

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**Appearance :**
MR MA KHARADI for Applicant(s) : 1,
MR DIPEN DESAI,APP for Respondent(s) : 1 - 4.

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**CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**

**Date : 11/10/2007**

**ORAL JUDGMENT**

In the present petition, the petitioner has challenged the order dated 3.7.96 passed by the District Supply Officer, Panchmahal as upheld by the

order dated 1.4.2000 passed by the Special Judge, Panchmahal, Godhra.

2. The petitioner runs a fair price shop under the license issued to him by the Government. Upon inspection, certain irregularities were noticed in the shop of the petitioner. A show cause notice, therefore, came to be issued on 22nd February 1996. After considering the representation of the petitioner, the District Supply Officer on 3rd July 1996 imposed penalty of Rs.1,000/- in addition to ordering confiscation of goods worth Rs.750/- belonging to the petitioner. This order has been produced at Annexure A and shall be hereinafter referred to as the said order at Annexure A.

3. Subsequently, strangely, the very same officer passed yet another order also on 3rd July 1996 confiscating goods of the petitioner worth Rs.18,787/-. This order has been produced at Annexure C and shall be referred to hereinafter as Annexure C.

4. It is not in dispute that the petitioner has paid fine and the amount of confiscation as directed under the said order at Annexure A. When the petitioner approached the learned Sessions Judge, the appeal was rejected on the ground that he has already paid the fine as directed. It is the case of the petitioner before the Sessions Court that what was under challenge was the order at Annexure C and that therefore, the dismissal of appeal was

erroneous. The petitioner is therefore before this court in the present petition.

5. Having heard the learned advocate Shri Kharadi for the petitioner and learned APP Shri Dipen Desai for the State, the order at Annexure is required to be struck down. For the same offence on the same set of facts once having passed an order of penalty and confiscation which is produced at Annexure A, it was not open for the authorities to pass fresh order and enhance the penalty/confiscation.

6. In the result, on the above ground alone, the petition is required to be allowed and is accordingly allowed by quashing the order at Annexure C. Rule is made absolute accordingly.

(Akil Kureshi, J.)

(vjn)